

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

JOHN LEATO; and  
LAURINA T. LEATO

PLAINTIFFS

v.

Civil No. 5:19-cv-05140

HORIZON BANK; and  
DOES 1-10, inclusive

DEFENDANTS

**OPINION AND ORDER**

Plaintiffs, John and Laurina Leato, filed this action under the Fair Debt Collection Practices Act. Plaintiffs proceed *pro se* and *in forma pauperis*.

By Order (ECF No. 6) entered on August 6, 2019, Plaintiffs were directed to file an amended complaint. The amended complaint was to be filed by August 27, 2019. Plaintiffs were advised that failure to comply with the Order “shall result” in the dismissal of the case.

To date, Plaintiffs have not filed an amended complaint. Plaintiffs have not sought an extension of time to comply with the Order. No mail has been returned as undeliverable.

The Federal Rules of Civil Procedure specifically contemplate dismissal of a case on the ground that the plaintiff failed to prosecute or failed to comply with an order of the court. Fed. R. Civ. P. 41(b); *Line v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962)(stating that the district court possesses the power to dismiss *sua sponte* under Rule 41(b)). Pursuant to Rule 41(b), a district court has the power to dismiss an action based on “the plaintiff’s failure to comply with any court order.” *Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986)(emphasis added). Additionally, Rule 5.5(c)(2) of the Local Rules for the Eastern and Western Districts of Arkansas requires parties appearing *pro se* to monitor the case, and to prosecute or defend the action diligently.

Therefore, pursuant to Rule 41(b), this Complaint should be and hereby is **DISMISSED WITHOUT PREJUDICE** based on Plaintiffs' failure to prosecute this case, their failure to obey the order of the Court, and their failure to comply with Local Rule 5.5(c)(2). Fed. R. Civ. P. 41(b).

**IT IS SO ORDERED** this 10th day of September 2019.

*/s/ P. K. Holmes, III*

P. K. HOLMES, III  
U.S. DISTRICT JUDGE